

Meeting Summary
Maine Citizen Trade Policy Commission
February 10, 2012
Room 220, Burton M. Cross State Office Building
Augusta, Maine

Members Present: Senator Sherman, Representative Maker, Senator Patrick, Representative Rotundo, Representative Bernard Ayotte, Deputy Attorney General Linda Pistner, Connie Jones, Jay Wadleigh, Wade Merritt, Harry Ricker, John Palmer, Joseph Woodbury, Mike Karagiannes (for Heather Parent, DEP)

Staff: Lock Kiermaier (Contract)

Upon the required number of members being present to constitute a quorum, the meeting was convened by the Chairs at approximately 9:30 AM.

In the first item of the proposed agenda, Senator Sherman and Representative Maker convened the meeting and asked Commission members to introduce themselves.

Review of 1/11/12 letters to USTR

The second item on the agenda was the review of letters sent to the USTR regarding the possible inclusion of Canada, Mexico and Japan in the Trans-Pacific Partnership Agreement (TPPA). During its previous meeting on December 15, 2011, CTPC members voted unanimously to send letters to Ron Kirk, Ambassador, United States Trade Representative, stating the Commission's concern that the inclusion of large trading partners into the TPPA was largely incompatible with a trade agreement that was originally conceived from the perspective of trade between the US and smaller Pacific rim countries.

These letters were sent to the USTR on 1/11/12 with copies to the Governor and members of Maine's Congressional delegation. Copies of the 3 separate letters were provided to Commission members for their review.

Discussion of Presidential Fast Track Authority

During its December 15, 2011 meeting, the Commission had a short discussion with Troy Haines, of the Maine Fair Trade Campaign, regarding President Obama's intent to ask Congress for "Fast Track Authority" to negotiate the TPPA. Mr. Haines had explained to the CTPC that Fast Track Authority effectively suspends the requirement that Congress negotiate trade policy agreements and thus eliminates the opportunity for Congress and the states to influence specific provisions of trade policy agreements. Commission members invited Mr. Haines to appear at this meeting to further discuss the topic of Fast Track Authority.

Due to traveling distance, Mr. Haines was unable to attend this meeting and was instead represented by Sarah Bigney, former CTPC member, and currently employed by the Maine AFL-CIO. After a brief presentation by staff person Lock Kiermaier of a recent resolution (HP 1152) pertaining to

states' rights in international trade policy initiated by the CTPC and passed by the First Regular Session of the 125th Maine State Legislature, Ms. Bigney made a brief presentation regarding Fast Track Authority and presented copies of three documents to commission members for their review:

- The first document was a previous resolution (SP 649) passed by the 123rd Maine State Legislature which was also initiated by the CTPC and asked Congress and the President not to pursue the authorization of Trade Promotion Authority (aka "Fast Track Authority") on the broad grounds that such authority lacks transparency and circumvents congressional responsibility to review and determine the terms of international trade;
- The second document was a advocacy piece authored by PublicCitizen, a Washington DC based lobbying organization, which reviewed the history of Fast Track Authority and strongly advocated against renewing Fast Track Authority for the President stating that this authority "...unnecessarily creates a situation where negotiators cannot be held accountable by the public, and legislators are denied their constitutional authority to set terms of international trade."; and
- The third document presented by Ms. Bigney was an excerpt of legislation proposed by U.S. Representative Michael Michaud in 2009 (H.R 3012) which would have strengthened the process by which trade agreements are reviewed by Congress.

Ms. Bigney strongly urged the Commission to consider sponsoring a new resolution which would memorialize the Congress, the President and the USTR not to pursue or authorize presidential Fast Track Authority. Upon extensive discussion of this possibility, Commission member Joseph Woodbury expressed his support for the concept of presidential Fast Track Authority and remarked that it would be impractical to imagine a process by which Congress and/or the states could participate in the ongoing detailed negotiations required by a trade agreement such as the TPPA. Mr. Woodbury further stated his opposition to any motion for a resolution which specifically opposed fast Track Authority and instead voiced support for an alternative approach which targeted the current lack of a defined and meaningful process by which trade agreements are negotiated and approved.

After a lengthy discussion, a motion was made by Representative Ayotte , and seconded by Representative Rotundo, to write a letter to the USTR and to initiate a legislative Resolution, both of which would advocate for a an improved trade negotiation process which encourages transparency and helps to preserve state sovereignty. The motion passed unanimously with a directive to staff to circulate drafts of both documents for review and editing by Commission members.

Presentation from Zoltan Van Heyninge, Executive Director of the U.S. Lumber Coalition, on the U.S. – Canada Softwood Lumber Agreement

Through the efforts of Senator Sherman, Mr. Zoltan Van Heyninge, Executive Director of the U.S. Lumber Coalition, made a phone presentation from Washington D.C. regarding the U.S. – Canada Softwood Lumber Agreement (SLA). Mr. Van Heyninge presented 2 documents for Commission members to review while he was speaking:

- The first document was a outline of his written remarks and included the following points:
 - *U.S. and Canadian Industries Operate on Different Principles – With Significant Impact in U.S. Competitive Market*

- In the United States, the industry operates under open market principles, and depends on its own competitiveness to survive.
- In Canada, the provincial governments own over 90 percent of the timber supply and make it available to the Canadian industry at far below true market pricing. Government policy, instead of the market, determines the cost of timber in Canada.

-Canada Has Repeatedly Violated Its Lumber Trade Agreement Commitments

- Canada is not living up to its lumber trade agreement commitments, to the detriment of the U.S. industry, its workers and their jobs, and private family forest landowners.

-U.S. Industry is Calling on Canada to Fully Comply With Its Trade Agreement Commitments – While Insisting on Swift and Effective Enforcement of the Lumber Trade Agreement

- While the U.S.–Canada Softwood Lumber Agreement has just been extended for two years – to October 2015 – the big question is “what happens after 2015.”
- The second document was a summary of the SLA:
 - ◆ In 2006, the U.S. and Canada signed a trade agreement to settle on-going disputes regarding Canadian softwood lumber imports;
 - ◆ From a U.S. perspective, the agreement has significant limitations in that the goal of open and competitive timber sales are not likely to ever be achieved;
 - ◆ Under the terms of the SLA, Canada must impose certain restrictions on the shipment of softwood lumber to the U.S; and
 - ◆ The SLA also specifies that future negotiations are intended to end Canadian subsidies and to prevent the dumping of Canadian lumber into the U.S. market.

Presentation from Representative Sharon Treat regarding recent IGPAC activities and updates on the progress of the TPPA

The next item on the agenda featured a presentation from Representative Treat regarding information about the current activities of the Intergovernmental Policy Advisory Committee (IGPAC) of the USTR (of which Rep. Treat is a member) and an update on her knowledge of the TPPA. Representative Treat made the following points:

- She appreciated Mr. Van Heyninge’s presentation and feels that a review of the SLA leads into a very relevant discussion of whether Canada should be included in the TPPA; It appears that the U.S. will be the only country to possibly oppose inclusion of Canada, Mexico and Japan into the TPPA. Concerns were expressed that negotiation of the TPPA should consider what impact, if any, adding Canada and/or Mexico might have on NAFTA;
- A very real concern is a final negotiation of the TPPA which later adds in Canada, Japan and Mexico without duly considering how their inclusion may impact the previously negotiated agreement;

- The investor-state mechanism is an important concept to be considered in the TPPA and without due consideration it is very possible that the TPPA will allow private companies to go to a foreign tribunal to overturn or determine the dictates of U.S. federal and state law;
- It is also conceivable that the TPPA will be negotiated to include the European Union in some fashion; and
- In concluding her remarks, Rep. Treat stated that it would be useful to her participation in IGPAC if she could reference the opposition of the CTPC to including any provision in the TPPA which would preempt a state's ability to regulate insurance.

After Representative Treat concluded her remarks, Representative Rotundo made a motion, which was seconded by Senator Sherman, to state that the CTPC was opposed to including any provision in the TPPA which would preempt a state's ability to regulate insurance. This motion was approved by unanimous vote of the Commission.

Bi-annual Assessment; Trans-Pacific Partnership Agreement

For the final agenda item, Staff person Lock Kiermaier updated commission members regarding the upcoming bi-annual assessment required by Maine law. During its December 15, 2011, meeting the Commission had settled on a preliminary plan to structure the next bi-annual assessment as a hybrid of several public hearings in which trade policy subject experts would be contracted to make formal presentations on particular trade policy topics pertaining to the TPPA. These presentations would be followed up by a formal written assessment that would be significantly smaller in scope than previous efforts.

Mr. Kiermaier next reported on several preliminary contacts he had made with a number of recognized trade policy experts. These individuals included:

- Sean Flynn; Associate Director, Program on Information Justice and Intellectual Property Professorial Lecturer in Residence at American University, Washington D.C.;
- Ellen R. Shaffer; Co-Director, Center for Policy Analysis on Trade and Health/CPATH, San Francisco, CA;
- Kay Alison Wilkie; Director for International Policy, Division of Business Advocacy and Research, Empire State Development / NYS Department of Economic Development, Albany NY;
- Robert Stumberg; Director and Professor of Law, Georgetown University, Washington D.C.; and
- Matthew Porterfield; Senior Fellow (trade & climate) and Adjunct Professor; Georgetown University, Washington D.C.

Mr. Kiermaier reminded Commission members that the CPTC has a budget of \$10,000 to conduct this assessment and briefly discussed the possibility of using televised link-ups to maximize the Commission's limited financial resources. Upon further discussion, Commission members voiced support for having presentations on the four following trade policy areas relative to the TPPA:

1. Procurement;
2. Softwood lumber;
3. Pharmaceuticals; and
4. Tobacco

Commission members further specified that they would like presentations on each of these policy areas to reflect subtexts on investor-state mechanisms and the impact of NAFTA. Finally, Commission members agreed to proceed with the development of the assessment plans through the use of e-mail and phone consultation prior to the next CPTC meeting which has been preliminarily scheduled for March 9, 2012.

The meeting was adjourned at approximately 12:30 PM.